

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

AMERITAS LIFE INSURANCE CORP.,

Plaintiff,

v.

WILMINGTON TRUST, N.A., as Securities  
Intermediary,

Defendant.

Civil Action No. 2:19-cv-18713

**WILMINGTON TRUST, N.A.'S BRIEF OPPOSING AMERITAS' MOTION TO  
ENFORCE SUBPOENAS SERVED UPON MICHEL GOLDMAN**

While Wilmington Trust, N.A., as Securities Intermediary ("Securities Intermediary") has not objected substantively to Ameritas' subpoena directed to Michel Goldman, Securities Intermediary does object to any deposition going forward in this matter before the parties' pending discovery suit is resolved, and Securities Intermediary has had an opportunity to review any further production to be made by Ameritas.

By its enforcement motion, Ameritas asks this Court to compel third-party Michel Goldman to appear for deposition within fifteen (15) days (Dkt No. 83, p. 2), according to the Notice of Motion, or within ten (10) days, by the proposed order filed therewith (Dkt. No. 83-3, p. 2).

Securities Intermediary has thoroughly briefed its claims regarding Ameritas' insufficient production of documents in this litigation (and bad faith efforts to obscure its non-compliance with discovery obligations) in the joint pre-motion letter filed July 1, 2021 (Dkt No. 63), and in Securities Intermediary's subsequent letters to this Court (Dkt Nos. 73, 76, and 82). Securities Intermediary has been prejudiced already as a result of Ameritas' pursuit of third-party depositions

without making full disclosures of documents fundamental to Securities Intermediary's claims and defenses in this action. If further depositions are permitted to proceed before Ameritas is compelled to make a full and complete production, and has made such production, to Securities Intermediary, Securities Intermediary will be further prejudiced.

Securities Intermediary therefore respectfully requests that this Court deny Ameritas' request that Michel Goldman's deposition be imminently compelled, without prejudice to Ameritas renewing its motion when it is in compliance with its discovery obligations, and Securities Intermediary has had an opportunity to review the documents withheld by Ameritas to date. Without such an order, Securities Intermediary will once again be prejudiced by having to attend the deposition of a third party without sufficient visibility into crucial investigation documents on which Ameritas continually relies, but which Ameritas has not produced.

For the sake of clarity, Securities Intermediary notes that it does not oppose that portion of the pending enforcement motion that seeks to compel Michel Goldman's production of documents.

Dated: October 19, 2021.

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